STATE OF MICHIGAN

COURT OF APPEALS

HOME-OWNERS INSURANCE COMPANY,

      Plaintiff-Appellant,

v

CRAIG JOHN BONNVILLE, DIMITRI
JONATHAN BONNVILLE, PAUL MATTHEW
LANGE, and RICHARD ALLEN LANGE,

      Defendants-Appellees.

UNPUBLISHED
June 8, 2006

No. 266794
Lapeer Circuit Court
LC No. 04-035144-CK

Before: Schuette, P.J., and Bandstra and Cooper, JJ.

BANDSTRA, J. (*concurring in part and dissenting in part*).

I concur with the majority except in its determination that evidence regarding Paul Lange's plea of nolo contendere is inadmissible.

MRE 410(2) allows evidence of such a plea "to support a defense against a claim asserted by the person who entered the plea[.]" I see no reason to read the rule's 'claim asserted' language so narrowly that it only applies in situations where the person who previously entered a nolo plea is the plaintiff in a lawsuit. In an action like this declaratory judgment suit, even though Lange is a defendant, he is still asserting a claim against plaintiff in response to plaintiff's complaint alleging that Lange has no coverage.

> The word "claimant" is defined as "a person who makes a claim." *Random House Webster's College Dictionary* (1997). The relevant dictionary definitions of the word "claim" include "a demand for something as due; an assertion of a right or an alleged right," and "a request or demand for payment in accordance with an insurance policy. . . ." *Id.* [*Lakeland Neurocare Ctrs v State Farm Mut Automobile Ins Co*, 250 Mich App 35, 41; 645 NW2d 59 (2002)]

We must consider the rule's 'meaning as understood in common language.' *Id.* at 40. If someone were to hear that a 'claim has been filed' after an incident like that giving rise to this lawsuit, most often the impression would be that a request for insurance coverage was at issue. Regardless whether an insured is a plaintiff filing a suit to recover insurance benefits or a defendant seeking recovery of those same benefits in a declaratory action brought by the insurer, the insured is asserting a claim and is, thus, included in the clear language of MRE 410(2).

      /s/ Richard A. Bandstra